IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 3RD OCTOBER 2007 / 11TH ASWINA 1929

WP(C).No. 29139 of 2007(R)

AGAINST THE ORDER DATED 30/05/2007 IN IA. 1178 /2006 IN LAR.69/2002 OF SUB COURT, HOSDRUG

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PETITIONER:

E.K.ABDULLA, S/O. LATE ANDUNHI HAJI,
KIZHAKKE KARAMMAL HOUSE, ARANGADI IN KANHANGAD VILLAGE, HOSDURG TALUK, KASARGODE DISTRICT,
BY HIS POWER HOLDER K.ABDULLA, S/O. KOOLIKADU SAIDU, KOOLIKADU HOUSE, V.P.ROAD, P.O.CHITTARI IN HOSDURG TALUK.

BY ADV. SRI.V.RAJENDRAN
SRI.P.SAMSUDIN

RESPONDENTS:

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1. THE SPECIAL TAHSILDAR (L.A.),
KASARGODE.

2. KANHANGAD MUNICIPALITY, REPRESENTED BY ITS SECRETARY, KANHANGAD.

3. E.K.NABEESA, D/O. LATE ANDUNHI HAJI,
KIZHAKKE KARAMMAL HOUSE, ARANGADI IN KANHANGAD VILLAGE, HOSDURG TALUK, KASARGODE DISTRICT.

4. E.K.SUHARA, D/O. LATE ANDUNHI HAJI,
KIZHAKKE KARAMMAL HOUSE, ARANGADI IN KANHANGAD VILLAGE, HOSDURG TALUK, KASARGODE DISTRICT.

5. E.K.RUKYA, D/O. LATE ANDUNHI HAJI,
KIZHAKKE KARAMMAL HOUSE, ARANGADI IN KANHANGAD VILLAGE, HOSDURG TALUK, KASARGODE DISTRICT.

6. E.K.SUBAIDA, D/O. LATE ANDUNHI HAJI,
KIZHAKKE KARAMMAL HOUSE, ARANGADI IN KANHANGAD
VILLAGE, HOSDURG TALUK, KASARAGOD DISTRICT.

7. E.K.ABOOBACKER, S/O. LATE ANDUNHI HAJI,
KIZHAKKE KARAMMAL HOUSE, ARANGADI IN KANHANGAD
VILLAGE, HOSDURG TALUK, KASARGODE DISTRICT.

8. E.K.MOHAMMED, S/O. LATE ANDUNHI HAJI,
KIZHAKKE KARAMMAL HOUSE, ARANGADI IN KANHANGAD
VILLAGE, HOSDURG TALUK, KASARGODE DISTRICT.

BY GOVERNMENT PLEADER SRT. R.BINDHU

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 03/10/2007 ALONGWITH WP(C) NO. 29176/2007 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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M.N.KRISHNAN, J

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W.P.(C) Nos.29139,29176,29279,29231 & 29232 OF 2007

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Dated this the 3rd day of October 2007

JUDGMENT

These writ petitions are filed against the orders in L.A.R.Nos.69,59,60,56 & 61/2002 on the file of the Sub Court, Hosdurg. Unfortunately, in all these cases claimants did not appear and prosecute the matter and therefore the Land Acquisition Court passed orders answering the reference against the claimants. Subsequently in all these cases, petitions were filed under Order IX Rule 9 C.P.C. and that also ended in dismissal. At the outset, I may like to state that the Apex Court as well as this Court had laid down in very many decisions that the Land Acquisition Court has no power to dismiss a reference for default. It is the duty of the court to consider the materials available, apply its mind and take a judicial decision even in the absence of the parties. A perusal of the first order would reveal that the learned Sub Judge has not applied his mind and entertainment of the second application would reveal that he had only proceeded with the matter as if it is an ex parte matter. This approach is erroneous and therefore it requires correction.

Therefore the orders passed in all these cases are set aside and the matters are remitted back to the Sub Court, Hosdurg for fresh consideration after affording opportunity to the claimants as well as to the Government to produce documents and adduce evidence in support of their respective contentions. The court below is also empowered to consider whether the claimants will be entitled to interest during the period when the matter ended against the claimants and till the direction passed on this day. Parties are directed to appear before the court below on 6.11.2007.

W.P.(Cs) are disposed of as above.

M.N.KRISHNAN, JUDGE

Cdp/-